

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

RICHARD BOHANNON,	:	Case No. C-1-01-463
	:	
Petitioner,	:	JUDGE SPIEGEL
	:	
vs.	:	MAGISTRATE JUDGE HOGAN
	:	
ANTHONY BRIGANO, Warden,	:	
	:	
Respondent.	:	

**RESPONDENT BRIGANO'S RESPONSE
TO SEPTEMBER 18, 2003 ORDER OF THE COURT**

On September 17, 2001, Respondent filed a return of writ in which it was argued that Bohannon's habeas petition should be dismissed because it was untimely filed, and that his grounds for relief were procedurally defaulted and void of merit. On September 18, 2003, this Court ordered Respondent to submit additional evidence pinpointing the date when Bohannon submitted his habeas petition to prison officials for mailing.

Respondent agrees with the Court's calculation that Bohannon's statute of limitations under AEDPA expired on May 27, 2001. According to the records of the Lebanon Correctional Institution mailroom, Bohannon gave his petition to prison officials for mailing no earlier than May 29, 2001. (See attached affidavit, with exhibit). Of course, it is likely that Bohannon mailed his petition out well after May 29, 2001 since it was not received by the Clerk's Office until July 3, 2001. However, even using the earliest possible date (May 29, 2001) that Bohannon could have mailed out his petition,

his petition is still time-barred.

Respectfully submitted,

JIM PETRO (0022096)
Attorney General

s/Stuart A. Cole
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of Respondent Jackson's Return of Writ was sent to Petitioner Richard Bohannon, #374-617, Lebanon Correctional Institution, P.O. Box 56, Lebanon, Ohio 45036, via regular U.S. mail on this 16th day of October, 2003.

s/Stuart A. Cole
STUART A. COLE
Assistant Attorney General